

APPEAL NO. 010776

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on March 27, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury on _____, and that he had disability from November 10, 2000, through the date of the hearing. The appellant (self-insured employer) asserts on appeal that these determinations are not sufficiently supported by the evidence. The file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury and that he had disability from November 10, 2000, through the date of the hearing. The claimant testified that while at work on November 9 he slipped in a freezer while carrying pallets or boxes to fill an order; that although he did not fall, the load he was carrying bent his left wrist back and he also injured his low back; that on that day he reported the accident to his supervisor and was examined at the (clinic) used by the employer; that he declined to work at light duty because of his back pain; and that he began treatment with Dr. R, who took him off work and has not released him to return to work. The claimant conceded on cross-examination that the accident was unwitnessed, that he had missed some time from work, and that Dr. R was recommended to him by some friends. The self-insured employer's human resources manager testified that Dr. R had treated a number of employees for dubious injuries. Dr. S testified that based on her experience as a board-certified physiatrist and her review of the claimant's medical records from the clinic, the claimant did not sustain an injury.

The credibility of the claimant was a matter for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel will not disturb the challenged findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Judge